



DEPARTMENT OF VETERANS AFFAIRS

8320-01

38 CFR Part 80

RIN 2900-AR68

Veteran and Spouse Transitional Assistance Grant Program

AGENCY: Department of Veterans Affairs.

ACTION: Proposed rule.

SUMMARY: The Department of Veterans Affairs (VA), as authorized under the *Johnny Isakson and David P. Roe, M.D. Veterans Health Care and Benefits Improvement Act of 2020*, proposes regulations to establish the **Veteran and Spouse Transitional Assistance Grant Program** (VSTAGP). VA would establish grant application procedures and evaluative criteria for determining whether to issue funding to eligible organizations providing transition services to former members of the Armed Forces who were separated, retired, or discharged, as well as their spouses.

DATES: Comments must be received on or before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: Comments must be submitted through www.Regulations.gov. Except as provided below, comments received before the close of the comment period will be available at www.Regulations.gov for public viewing, inspection, or copying, including any personally identifiable or confidential business information included in a comment. We post the comments received before the close of the comment period on the following website as soon as possible after they have been received: www.Regulations.gov. VA will not post on www.Regulations.gov public comments that make threats to individuals or institutions or suggest that the commenter will take actions to harm an individual. VA encourages individuals not to submit duplicative comments. We will post acceptable comments from multiple unique commenters even if the content is identical or nearly

identical to other comments. Any public comment received after the comment period's closing date is considered late and will not be considered in the final rulemaking.

FOR FURTHER INFORMATION CONTACT: Kenneth Fenner, Program Analyst, Outreach, Transition and Economic Development, Veterans Benefits Administration, 1800 G Street, SW, Washington, DC 20006; 202-461-9412 (this is not a toll-free telephone number). If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call the Federal Relay Service (FRS) toll-free at 1-800-877-8339.

SUPPLEMENTARY INFORMATION:

Public Law 116-315, the *Johnny Isakson and David P. Roe, M.D. Veterans Health Care and Benefits Improvement Act of 2020* (the Act), was enacted on January 5, 2021. Section 4304 of the Act, codified at 38 U.S.C. 4100 note, authorizes the Secretary of Veterans Affairs (SECVA) to establish a grant program and issue grants to eligible organizations for the provision of transition services to former members of the Armed Forces who were separated, retired, or discharged from the Armed Forces, and spouses of such former members. SECVA delegated authority for implementing section 4304 to the Office of Outreach, Transition and Economic Development (OTED) within VA's Veterans Benefits Administration. VA proposes to amend its regulations by adding §§ 80.1 through 80.17 of title 38 CFR to implement this new grant authority.

According to the U.S. Department of Labor's Transition Assistance Program, approximately 200,000 men and women leave U.S. military service and return to civilian life each year. This process is known as the military-to-civilian transition. In a study published in 2015, more than 8,500 Veterans, active-duty Service members, National Guard and Reserve members, and military dependents identified their most significant transition challenges as:

- Navigating VA programs, benefits, and services (60%);
- Finding a job (55%);

- Adjusting to civilian culture (41%);
- Addressing financial challenges (40%); and
- Applying military-learned skills to civilian life (39%).¹

While a plethora of services exist to assist former Service members with their post-military transition, barriers persist limiting Veterans' ability to use them effectively.² A 2021 survey conducted by the George W. Bush Institute found that 55% of Veterans "who needed but did not receive employment services did not know how to access them," and roughly a third of Veterans "who needed but did not receive education benefits did not know how to access them."³ Furthermore, there is a need to more specifically address the post-discharge needs of unique subgroups. For example, most existing transition-related literature focuses on male Veterans' experience, yet based on a national survey conducted in 2019, only 12% of women Veterans reported satisfaction with available resources.

To assist VSTAGP participants in addressing these challenges and in response to section 4304 of the Act, Outreach, Transition, and Economic Development (OTED) would issue grants to eligible organizations to provide transition services to former members of the Armed Forces who were separated, retired, or discharged, as well as their spouses. VSTAGP is intended to be a workforce program providing intensive client-centered case management services tailored to the unique employment needs of program participants. In this respect, VSTAGP will compliment other workforce programs and will assist Veterans and their spouses with navigating numerous transitional resources. VA proposes

¹ Zoli, C., Maury, R., & Fay, D. (2015). Missing perspectives: Servicemembers' transition from service to civilian life. <https://surface.syr.edu/ivmf/7/>.

² Morgan et al. (2020). Reducing barriers to post-9/11 veterans' use of programs and services as they transition to civilian life. *BMC Health Services Research* 20, 525. <https://doi.org/10.1186/s12913-020-05320-4>.

³ George W. Bush Institute. (2021). Stand-To 2021: Advancing Veteran Employment, Education, & Health and Well-Being. <https://gwbcenter.imgix.net/Resources/gwb-ivmf-stand-to-2021.pdf>.

to accept applications from organizations that can determine a definitive need for the project in a defined service delivery area, such as those currently providing transition services and organizations desiring to provide transition services. Allowable transition services could include resume assistance, interview training, job recruitment training and related services that would result in a successful transition as determined by the Secretary. Related services would include, but are not limited to, employment placement services, employment education and/or training and employment referrals. To the extent feasible, services should be informed by existing evidence on effective approaches to supporting the transition, including research on evidence-based workforce development approaches.

Applications for VSTAGP funding proposals must clearly show through a comprehensive and coherent narrative how they will place program participants into jobs that are meaningful and sustainable. Successful applicants must describe their overall approach and strategy for providing a set of employment services leading to the successful transition of members of the U.S. Armed Forces who are separated, retired, or discharged, as well as their spouses. The strategy must include procedures for outreach, assessment, intake and follow-up services that enhance transition, as well as any other anticipated outcome. Applicants must also identify and fully describe the support services that will be provided to participants as part of the applicant's strategy to promote, prepare and improve the participant's transition. A participant flow chart, Gantt chart or similar graphic to show the sequence and mix of services is also required. Examples of historically successful placement strategies are on-the-job training (OJT), registered apprenticeship, pre-arranged placements, direct hire, collaboration with temporary to permanent agencies and partnerships with trade schools that guarantee high permanent employment placement rates. Further, applicants must include detailed budgets for their proposed project to include a concise narrative to support the budget request. Applicants

must propose a budget that supports the targeted population, the service delivery area(s) and the Veterans and spouses to be served.

Awarded programs will be expected to conduct outreach, intake and assessment, employment training, job placement, and employment retention services.

Proposed § 80.1 would set forth the purpose of VSTAGP, as noted above. As this is a new VA authority, we propose to define terms in § 80.2 that would be referenced in §§ 80.1 through 80.17. For the “eligible recipient (organization)” definition, we propose to list various entities that currently are providing or may desire to provide transition services described in section 4304(b) of the Act and then provide more specific definitions of the listed entities (a list of entity definitions can be found on pages 27-30). We also propose to define the term “participant” as a former member of the U.S. Armed Forces who was separated, retired, or discharged from the U.S. Armed Forces or spouse of such former member who receives services for which a VSTAGP grant is awarded.

In § 80.3, we would provide general information about VSTAGP grants. For example, § 80.3(b) would state that the maximum amount of a grant award to a grantee and the total maximum amount available for all grants would be specified in the Notice of Funding Opportunity (NOFO). Section 80.3(d) would clarify that an eligible entity may receive only one VSTAGP grant and that VA would award only one VSTAGP grant in any one location as specified in the NOFO. Section 80.3(e) would provide that a VSTAGP grant would be awarded for a maximum period of 5 years. Section 80.3(f) would note the statutory funds matching requirement for grantees, and § 80.3(g) would prohibit a grantee from charging fees to a participant or requiring a participant to participate in other activities sponsored by the grantee.

VA would publish at www.grants.gov a NOFO that would include the grant application and other requirements. The Office of Management and Budget (OMB) requires the issuance of a NOFO and publication of other information to ensure that

eligible organizations have the information required to apply for grants. Proposed § 80.4 would set out certain provisions that would be included in a NOFO which is also required per appendix I to 2 CFR part 200- *Full Text of the Notice of Funding Opportunity*, including instructions on how interested parties could apply for a grant. At a minimum, the NOFO will include application filing requirements, scoring criteria, deadlines for submission, estimates of the total available funding, the maximum funding available to a single grantee, a description of eligible entities or other eligibility requirements necessary to receive the grant and a description of the program including the program goals and objectives, a reference to the relevant Assistance Listings, and a description of how the award will contribute to the achievement of the program's goals and objectives. These components are consistent with 2 CFR 200.203, which requires the issuance of a NOFO that includes information describing the funding opportunity, eligible organizations, application submission and review, and Federal award administration requirements. Additional information in a NOFO would include cost sharing or matching information, priority preferences, description of allowable uses/activities, timeframes and manner of grant payments, reporting requirements, evaluation criteria, and other information commonly utilized in Federal grant programs that VA deems necessary for the application process.

We propose to describe in § 80.5 that, to apply for a VSTAGP grant, an applicant must submit a complete grant application package as described in a NOFO posted at www.grants.gov. An applicant may need to provide a well-articulated project narrative that describes proposed program services that would best address the scope of the NOFO. The content that may be required in the narrative may have to describe program design (including outreach), recruitment and engagement plans, assessments process, identify any local area network service providers and address the applicant's ability and capacity to administer the grant.

In selecting awardees, VA will want to consider an applicant's experience with similar programs as defined by the NOFO or related work in that particular field or subject matter. Applicants will need to propose a budget of costs and proposed expenditures. Other budgetary requirements may be included in the NOFO. These disclosures will help VA to more fully assess the extent to which an applicant has considered all aspects of planning and the likelihood of successful completion of grant objectives. Because grants awarded under this program require cost-sharing or matching funds, an applicant will have to provide evidence of secured cash matching funds from non-Federal sources that are at least equal to Federal grant funds awarded by VA or an explanation of the applicant's ability to secure commitments to receive such funding. In this section, VA also proposes a catch-all provision to allow for flexibility in assessing proposed budget narrative to including matching fund requirements that would be published in the NOFO. Applicants, whether successful or not, would not be entitled to reimbursement of pre-award costs.

As proposed under § 80.7, VA would review completed grant applications, as described in the NOFO. Applications would have to be submitted on time and meet the minimum application and other NOFO requirements. The NOFO would include information about the scoring process and clarify the minimum point totals per scoring category that an applicant must receive to be considered for a grant. Proposed § 80.7(b) would explain how VA would score and rank the grant applicants and select grant recipients. VA would rate all grant applications against each other to determine the likelihood of successful implementation of the grant program published in the NOFO and would consider other factors, as explained in § 80.6, when evaluating an applicant's qualifications for the grant award. Factors such as an applicant's past performance on a prior award, an applicant's fiscal integrity, or risk assessments are examples of other considerations that would affect VA's scoring of grant applications. VA would conduct a risk assessment prior to issuing

VSTAGP awards. The results of this pre-award risk assessment would be used to determine if specific terms and conditions are needed upon award. Grants would be awarded based on a competitive application process. Section 4304 provides priority preferences for organizations that either (1) provide multiple forms of services, or (2) are located in a State with (a) a high rate of unemployment among Veterans; (b) a high rate of usage of unemployment benefits for recently separated members of the Armed Forces; or (c) a labor force or economy that has been significantly impacted by a covered public health emergency. Any grant made would have to be matched by the recipient organization with funds at least equal to the funds awarded by VA.

As proposed under § 80.8, VA may approve VSTAGP grant applications in whole or in part subject to conditions VA deems necessary to ensure full flexibility in meeting Departmental or programmatic goals as identified in the NOFO. VA may also disapprove an application because it does not rank sufficiently high in relation to other applications. Further, VA may defer action on applications for reasons that require further review or additional time to meet grant requirements, such as lack of funds. In all instances, VA would convey decisions in writing to applicants on all grant submissions. As noted, under proposed § 80.17, VA application decisions are discretionary and are not subject to appeal.

VA proposes to include a withdrawal provision in § 80.9. Applicants would be able to submit a request in writing to the VA point of contact specified in the published NOFO to withdraw their application from consideration. Applicants should provide a rationale for the withdrawal request.

For grant awards, VA proposes in § 80.10 to memorialize the awards in an agreement, in accordance with the terms set out in § 80.10 and in the NOFO. As a condition of receiving a VSTAGP grant, grantees and grantee subrecipients (e.g., contractors and other entities utilized by a grantee to execute grant requirement), would

have to agree to operate their programs in accordance with VA regulations in proposed §§ 80.1 through 80.17, Federal regulations in 2 CFR part 200 and parts 25 and 170, if applicable, the information provided in the grant application, and the terms of the grant agreement. Part 200 provides uniform guidance and government-wide terms and conditions for the management of awards and the administration of Federal grants. This rulemaking provides additional guidance and conditions specifically for administering VSTAGP grants. Adherence to the government-wide rules would be mandatory, and compliance with the additional rules specific to VSTAGP grants would ensure program integrity across all VSTAGP grants and VA awards. Pursuant to proposed § 80.10(b)(3), included among those terms would be the grantees' compliance with recordkeeping and reporting requirements provided in proposed § 80.16 and as specified in the Terms and Conditions section of the grant agreement. Under proposed § 80.12, within 120 days after the last day of the grant period, grantees would have to submit a final report to VA that meets the requirements set forth in the NOFO.

Additionally, upon execution of the grant agreement, VA would obligate grant funds, as provided in proposed § 80.11, to the extent such costs are authorized by VA in the NOFO or the grant agreement or authorized subsequently by VA in writing, should the need arise.

As proposed in § 80.13(a), VA may terminate a grant agreement if a grantee does not comply with the terms of the grant agreement. Under proposed § 80.13(b), if VA determines that recovery of funds is necessary for violations of the grant agreement or unauthorized use of grant funds, VA would notify grantees in writing of the intent to recover grant funds. Grantees would have 30 days to submit documentation refuting the proposed recovery, which VA would review for a final determination. If VA makes a final decision that action would be taken to recover grant funds from the grantee, VA would stop further payments of grant funds under this part until the grant funds are recovered

and the condition that led to the decision to recover grant funds has been resolved, unless the grant agreement has been terminated. If the grant agreement has been terminated, no future payments would be issued upon recovery. VA believes these measures would help safeguard Federal funds and ensure the appropriate use of the VSTAGP grant funds awarded.

As part of VA's duty to ensure fiscal responsibility, VA proposes in § 80.14 to conduct site visits to grantee locations to review grantee accomplishments and management control systems. In addition, VA may conduct, as needed, inspections of grantee records to determine compliance with the provisions of this part. All visits and evaluations would be performed with minimal disruption to the grantee to the extent practicable. Further, as proposed in § 80.15, VA would enforce 2 CFR part 200 regulations to ensure all VSTAGP grant recipients comply with the requirements of the Single Audit Act of 1996 and use a compliant financial management system based on OMB cost principles. As proposed in § 80.16, grantees would have to produce, upon VA's request, records maintained in accordance with 2 CFR 200.337.

Executive Orders 12866, 13563 and 14094

Executive Order 12866 (Regulatory Planning and Review) directs agencies to assess the costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, and other advantages; distributive impacts; and equity). Executive Order 13563 (Improving Regulation and Regulatory Review) emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. Executive Order 14094 (Executive Order on Modernizing Regulatory Review) supplements and reaffirms the principles, structures, and definitions governing contemporary regulatory review

established in Executive Order 12866 of September 30, 1993 (Regulatory Planning and Review), and Executive Order 13563 of January 18, 2011 (Improving Regulation and Regulatory Review). The Office of Information and Regulatory Affairs has determined that this rulemaking is a significant regulatory action under Executive Order 12866, as amended by Executive Order 14094. The Regulatory Impact Analysis associated with this rulemaking can be found as a supporting document at www.regulations.gov.

Regulatory Flexibility Act

The Secretary hereby certifies that this proposed rule would not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (5 U.S.C. 601-612). Receiving or not receiving a grant is unlikely to have a significant economic impact on small entity applicants. Therefore, pursuant to 5 U.S.C. 605(b), the initial and final regulatory flexibility analysis requirements of 5 U.S.C. 603 – 604 do not apply.

Unfunded Mandates

The Unfunded Mandates Reform Act of 1995 requires, at 2 U.S.C. 1532, that agencies prepare an assessment of anticipated costs and benefits before issuing any rule that may result in the expenditure by State, local and tribal governments, in the aggregate or by the private sector, of \$100 million or more (adjusted annually for inflation) in any one year. This proposed rule would have no such effect on State, local and tribal governments or on the private sector.

Paperwork Reduction Act

This proposed rule contains provisions constituting new collections of information under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3521) that

require approval by OMB. Accordingly, under 44 U.S.C. 3507(d), VA has submitted a copy of this rulemaking action to OMB for review and approval.

OMB assigns control numbers to collections of information it approves. VA may not conduct, or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. Proposed 38 CFR 80.5, 80.12 and 80.16 contain collections of information under the Paperwork Reduction Act of 1995. If OMB does not approve the collections of information as requested, VA will immediately remove the provisions containing collections of information or take other action as directed by OMB.

Comments on the new collections of information contained in this rulemaking should be submitted through www.Regulations.gov. Comments should indicate that they are submitted in response to “RIN 2900-AR68 – Veteran Transitional Assistance Grant Program” and should be sent within 30 days of publication of this rulemaking. The collections of information associated with this rulemaking can be viewed at: www.reginfo.gov/public/do/PRAMain.

OMB is required to make a decision concerning the collections of information contained in this proposed rule between 30 and 60 days after the publication of this document in the *Federal Register*. Therefore, a comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication. This does not affect the deadline for the public to comment on the proposed rule. Notice of OMB approval for this information collection will be published in a future *Federal Register* document.

The Department considers comments by the public on proposed collections of information in:

- Assessing whether the proposed collections of information are necessary for the proper performance of the functions of the Department, including whether the information will have practical utility;

- Assessing the accuracy of the Department's estimate of the burden of the proposed collections of information, including the validity of the methodology and assumptions used;
 - Enhancing the quality, usefulness, and clarity of the information to be collected;
- and
- Minimizing the burden of the collections of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, such as permitting electronic submission of responses.

The collections of information contained in 38 CFR 80.5, 80.12 and 80.16 are described immediately following this paragraph.

Title: SF-424 Application for Federal Assistance.

OMB Control No: 2900-8080

- *Summary of collection of information:* The new collection of information in proposed 38 CFR 80.5 would require VSTAGP grant applicants to submit the SF-424 as a minimum requirement to qualify for a VSTAGP grant.
- *Description of the need for information and proposed use of information:* The collection of information would be necessary to determine applicant eligibility for a VSTAGP grant. VA would use this information to score completed grant applications.
- *Description of likely respondents:* Eligible recipients, as defined in proposed § 80.2, that are interested in applying for a VSTAGP grant.
- *Estimated number of respondents:* 200 per year.
- *Estimated frequency of responses:* Annually.
- *Estimated average burden per response:* 1 hour.
- *Estimated total annual reporting and recordkeeping burden:* 1 hour.

- *Estimated annual cost to respondents for the hour burdens for collections of information:* According to the U.S. Bureau of Labor Statistics Mean Hourly Earnings, the cost to each respondent would be \$28.01, making the total cost for respondents an estimated \$5,602.00 (200 respondents x 1 burden hour x \$28.01 per hour). (Source: May 2021 BLS National Occupational Employment and Wage Estimates, Code: 00–0000, All Occupations: https://www.bls.gov/oes/current/oes_nat.htm#00-0000)

- *Estimated cost to the Federal Government:* There is no projected incremental increase in the cost burden to the Federal Government with the requirement of the SF-424, Application for Federal Assistance. OTED currently has existing personnel, systems, and processes (or other resources) in place to receive and review their grant applications. Any additional cost for agency system development, maintenance, and enhancements should not be attributed to the use of SF-424, and therefore its use is not expected to alter annualized Federal costs.

Title: SF-424A Budget Information – Non-Construction Programs.

OMB Control No: 4040-0006

- *Summary of collection of information:* The new collection of information in proposed 38 CFR 80.5 would require VSTAGP grant applicants to submit the SF-424A as a minimum requirement to qualify for a VSTAGP grant.

- *Description of the need for information and proposed use of information:* The collection of information would be necessary to determine applicant eligibility for a VSTAGP grant, to document proposed costs, and to determine allowability of proposed costs. VA would use this information to score completed grant applications and for general management of VSTAGP awards.

- *Description of likely respondents:* Eligible recipients, as defined in proposed § 80.2, that are interested in applying for a VSTAGP grant.

- *Estimated number of respondents:* 200 per year.
- *Estimated frequency of responses:* Annually.
- *Estimated average burden per response:* 3 hours.
- *Estimated total annual reporting and recordkeeping burden:* 3 hours.
- *Estimated annual cost to respondents for the hour burdens for collections of*

information: According to the U.S. Bureau of Labor Statistics Mean Hourly Earnings, the cost to each respondent would be \$84.03, making the total cost for respondents an estimated \$16,806.00 (200 respondents x 3 burden hours x \$28.01 per hour). (Source: May 2021 BLS National Occupational Employment and Wage Estimates, Code: 00–0000, All Occupations: https://www.bls.gov/oes/current/oes_nat.htm#00-0000)

- *Estimated cost to the Federal Government:* There is no projected incremental increase in the cost burden to the Federal Government with the requirement of the SF-424A, Budget Information – Non-Construction Programs. OTED currently has existing personnel, systems, and processes (or other resources) in place to receive and review their grant applications. Any additional cost for agency system development, maintenance, and enhancements should not be attributed to the use of the SF-424A, and therefore its use is not expected to alter annualized Federal costs.

Title: 4040-0010 Project/Performance Site Location(s)

OMB Control No: 4040-0010

- *Summary of collection of information:* The new collection of information in proposed 38 CFR 80.5 would require VSTAGP grantees to submit the primary location and any other locations where project activity would occur.
- *Description of the need for information and proposed use of information:* The collection of information would be necessary to ensure adequate geographic coverage.
- *Description of likely respondents:* Eligible recipients, as defined in proposed §

80.2, that are interested in applying for a VSTAGP grant.

- *Estimated number of respondents:* 200 per year.
- *Estimated frequency of responses:* Annually.
- *Estimated average burden per response:* 5 minutes.
- *Estimated total annual reporting and recordkeeping burden:* 5 minutes.
- *Estimated annual cost to respondents for the hour burdens for collections of*

information: According to the U.S. Bureau of Labor Statistics Mean Hourly Earnings, the cost to each respondent would be \$2.33, making the total cost for respondents an estimated \$466.83 (200 respondents x ((5 burden minutes x \$28.01 per hour) / 60 minutes)). (Source: May 2021 BLS National Occupational Employment and Wage Estimates, Code: 00–0000, All Occupations:

https://www.bls.gov/oes/current/oes_nat.htm#00-0000)

- *Estimated cost to the Federal Government:* There is no projected incremental increase in the cost burden to the Federal Government with the requirement of the 4040-0010 Project/Performance Site Location(s). OTED currently has existing personnel, systems, and processes (or other resources) in place to receive and review their grant applications. Any additional cost for agency system development, maintenance, and enhancements should not be attributed to the use of form 4040-0010 Project/Performance Site Location(s), and therefore its use is not expected to alter annualized Federal costs.

Title: 4040-0013 Certification Regarding Lobbying

OMB Control No: 4040-0013

- *Summary of collection of information:* The new collection of information in proposed 38 CFR 80.5 would require VSTAGP applicants to submit the Certification Regarding Lobbying form if requesting an award greater than \$100,000.

- *Description of the need for information and proposed use of information:* The

collection of information would be necessary for applicants to attest to the certifications regarding lobbying. This collection may not be required of every applicant.

- *Description of likely respondents:* Eligible recipients, as defined in proposed § 80.2, that are interested in applying for a VSTAGP grant.

- *Estimated number of respondents:* 198 per year.

- *Estimated frequency of responses:* Annually.

- *Estimated average burden per response:* 15 minutes.

- *Estimated total annual reporting and recordkeeping burden:* 15 minutes.

- *Estimated annual cost to respondents for the hour burdens for collections of information:* According to the U.S. Bureau of Labor Statistics Mean Hourly Earnings, the cost to each respondent would be \$7.00, making the total cost for respondents an estimated \$1,386.49 (198 respondents x ((15 burden minutes x \$28.01 per hour) / 60 minutes)). (Source: May 2021 BLS National Occupational Employment and Wage Estimates, Code: 00–0000, All Occupations:

https://www.bls.gov/oes/current/oes_nat.htm#00-0000)

- *Estimated cost to the Federal Government:* There is no projected incremental increase in the cost burden to the Federal Government with the requirement of the 4040-0013 Certification Regarding Lobbying. OTED currently has existing personnel, systems, and processes (or other resources) in place to receive and review grant applications. Any additional cost for agency system development, maintenance, and enhancements should not be attributed to the use of 4040-0013 Certification Regarding Lobbying, and therefore its use is not expected to alter annualized Federal costs.

Title: Quarterly Performance Reports (IT instrument)

OMB Control No: 2900-xxxx (New/TBD)

- *Summary of collection of information:* The new collection of information in

proposed 38 CFR 80.12 would require VSTAGP grantees to submit quarterly performance reports.

- *Description of the need for information and proposed use of information:* The collection of information would be necessary to monitor grantee performance and document the success of the program.

- *Description of likely respondents:* Grantees.
- *Estimated number of respondents:* 10 per year.
- *Estimated frequency of responses:* Quarterly.
- *Estimated average burden per response:* 1 hour per quarter.
- *Estimated total annual reporting and recordkeeping burden:* 4 hours.
- *Estimated annual cost to respondents for the hour burdens for collections of information:* According to the U.S. Bureau of Labor Statistics Mean Hourly Earnings, the cost to each respondent would be \$112.04, making the total cost for respondents an estimated \$1,120.40 (10 respondents x 4 burden hours x \$28.01 per hour). (Source: May 2021 BLS National Occupational Employment and Wage Estimates, Code: 00–0000, All Occupations: https://www.bls.gov/oes/current/oes_nat.htm#00-0000)

- *Estimated cost to the Federal Government:* There is no projected incremental increase in the cost burden to the Federal Government with the requirement of the Quarterly Performance Reports (IT instrument). OTED currently has existing personnel, systems, and processes (or other resources) in place to receive and review grant applications. Any additional cost for agency system development, maintenance, and enhancements should not be attributed to the use of Quarterly Performance Reports (IT instrument), and therefore its use is not expected to alter annualized Federal costs.

Title: SF-425 Federal Financial Report.

OMB Control No: 4040-0014

- *Summary of collection of information:* The new collection of information in proposed 38 CFR 80.12 would require VSTAGP grantees to submit quarterly financial reports to assess financial expenditure compliance under this grant program.

- *Description of the need for information and proposed use of information:* The collection of information would be necessary to monitor grantee compliance with financial requirements.

- *Description of likely respondents:* Grantees.
- *Estimated number of respondents:* 10 per year.
- *Estimated frequency of responses:* Quarterly.
- *Estimated average burden per response:* 1 hour per quarter.
- *Estimated total annual reporting and recordkeeping burden:* 4 hours.
- *Estimated annual cost to respondents for the hour burdens for collections of information:* According to the U.S. Bureau of Labor Statistics Mean Hourly Earnings, the cost to each respondent would be \$112.04, making the total cost for respondents an estimated \$1,120.40 (10 respondents x 4 burden hours x \$28.01 per hour). (Source: May 2021 BLS National Occupational Employment and Wage Estimates, Code: 00–0000, All Occupations: https://www.bls.gov/oes/current/oes_nat.htm#00-0000)

- *Estimated cost to the Federal Government:* There is no projected incremental increase in the cost burden to the Federal Government with the requirement of the SF-425 Federal Financial Report. OTED currently has existing personnel, systems, and processes (or other resources) in place to receive and review grant applications. Any additional cost for agency system development, maintenance, and enhancements should not be attributed to the use of SF-425 Federal Financial Report, and therefore its use is not expected to alter annualized Federal costs.

Title: Additional Reports (IT instrument).

- *Summary of collection of information:* The new collection of information in proposed 38 CFR 80.12 would require VSTAGP grantees to provide additional performance reports, as needed, to assess the provisions of services under this grant program.

- *Description of the need for information and proposed use of information:* The collection of information would be necessary to assess project accountability and effectiveness.

- *Description of likely respondents:* Grantees.
- *Estimated number of respondents:* 10.
- *Estimated frequency of responses:* Once.
- *Estimated average burden per response:* 1 hour.
- *Estimated total annual reporting and recordkeeping burden:* 1 hour.
- *Estimated annual cost to respondents for the hour burdens for collections of information:* According to the U.S. Bureau of Labor Statistics Mean Hourly Earnings, the cost to each respondent would be \$28.01, making the total cost for respondents an estimated \$280.10 (10 respondents x 1 burden hour x \$28.01 per hour). (Source: May 2021 BLS National Occupational Employment and Wage Estimates, Code: 00–0000, All Occupations: https://www.bls.gov/oes/current/oes_nat.htm#00-0000)

- *Estimated cost to the Federal Government:* There is no projected incremental increase in the cost burden to the Federal Government with the requirement of the Additional Reports (IT instrument). OTED currently has existing personnel, systems, and processes (or other resources) in place to receive and review grant applications. Any additional cost for agency system development, maintenance, and enhancements should not be attributed to the use of Additional Reports (IT instrument), and therefore its use is not expected to alter annualized Federal costs.

Title: Recordkeeping

OMB Control No: 2900-xxxx (New/TBD)

- *Summary of collection of information:* The new collection of information in proposed 38 CFR 80.16 would require VSTAGP records to be maintained. VA officials are entitled access to any documents, papers, or other records which are pertinent to the VSTAGP award for audits, examinations, excerpts, and transcripts. This also includes timely and reasonable access to VSTAGP personnel for interviews and discussions related to such documents.

- *Description of the need for information and proposed use of information:* The collection of information would be necessary to access project records.

- *Description of likely respondents:* Grantees.
- *Estimated number of respondents:* 10.
- *Estimated frequency of responses:* Annually.
- *Estimated average burden per response:* 1 hour.
- *Estimated total annual reporting and recordkeeping burden:* 1 hour.
- *Estimated annual cost to respondents for the hour burdens for collections of information:* According to the U.S. Bureau of Labor Statistics Mean Hourly Earnings, the cost to each respondent would be \$28.01, making the total cost for respondents an estimated \$280.10 (10 respondents x 1 burden hour x \$28.01 per hour). (Source: May 2021 BLS National Occupational Employment and Wage Estimates, Code: 00–0000, All Occupations: https://www.bls.gov/oes/current/oes_nat.htm#00-0000)

- *Estimated cost to the Federal Government:* There is no projected incremental increase in the cost burden to the Federal Government as a result of this requirement. OTED currently has existing personnel, systems, and processes (or other resources) in place to receive and review their grant applications. Any additional cost for agency

system development, maintenance, and enhancements should not be attributed to Recordkeeping, and therefore its use is not expected to alter annualized Federal costs.

Assistance Listing

The Assistance Listing number and title for the program affected by this document is 64.058, Veteran Transitional Assistance Grant Program.

List of Subjects in 38 CFR Part 80

Administrative practice and procedure, Armed forces, Employment, Grant programs-veterans, Reporting and recordkeeping requirements, Transition, Veterans.

Signing Authority

Denis McDonough, Secretary of Veterans Affairs, approved and signed this document on May 3, 2023, and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs.

Jeffrey M. Martin,

Assistant Director,

Office of Regulation Policy & Management,

Office of General Counsel,

Department of Veterans Affairs.

For the reasons stated in the preamble, VA proposes to amend title 38 by adding part 80 as set forth below:

PART 80—VETERAN TRANSITIONAL ASSISTANCE GRANT PROGRAM

Sec.

- 80.1 Purpose and use of grant funds.
- 80.2 Definitions.
- 80.3 Grants—general.
- 80.4 Notice of Funding Opportunity (NOFO).
- 80.5 Applications.
- 80.6 Additional factors for selecting applications.
- 80.7 Scoring and selection.
- 80.8 Disposition of applications.
- 80.9 Withdrawal of grant application.
- 80.10 Grant agreement.
- 80.11 Payments under the grant.
- 80.12 Grantee reporting requirements.
- 80.13 Termination of grant; recovery of funds.
- 80.14 Compliance review requirements.
- 80.15 Financial management.
- 80.16 Recordkeeping.
- 80.17 Non-appealability of grant award decisions.

Authority: 38 U.S.C. 501, 512; Pub. L. 116-315, sec. 4304.

§ 80.1 Purpose and use of grant funds.

Sections 80.1 through 80.17 establish the Veteran Transitional Assistance Grant Program (VSTAGP). Under this program, VA may provide grants to eligible organizations defined in § 80.2 to provide transition services and intensive client centered case

management services tailored to the unique employment needs of program participants to include, but not limited to such services, such as resume assistance, interview training, job recruitment training and related services, that will help in a successful transition from military to civilian life.

(Authority: Pub. L. 116-315, sec. 4304)

§ 80.2 Definitions.

For purposes of this part and any Notice of Funding Opportunity (NOFO) issued pursuant to this part:

(a) *Applicant* means an eligible organization that submits an application for a VSTAGP grant as announced in a NOFO.

(b) *Eligible recipient (organization)* means one of the following:

- (1) State government;
- (2) County government;
- (3) Local government;
- (4) Institution of Higher Education;
- (5) Indian/Native American tribal government (Federally recognized);
- (6) Nonprofit organization; or
- (7) Faith-based organization;

(c) *State government* means any of the fifty States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, or any agency or instrumentality of a State government.

(d) *County government* means a county government entity or any corresponding unit of government under any other name in States that do not have county organizations and, in those States in which the county government does not have jurisdiction over highways, any local government unit vested with jurisdiction over local highways.

(e) *Local government* means a government entity for a county; borough;

municipality; city; town; township; parish; local public authority (including any public housing agency under the United States Housing Act of 1937); special district; school district; intrastate district; council of governments, whether or not incorporated as a nonprofit corporation under state law; and any other agency or instrumentality of a multi-regional, intra-State or local government.

(f) *Institution of Higher Education (IHE)* means a public or private educational institution that provides an educational program for which the institution awards a bachelor's degree or provides not less than a 2-year program that is acceptable for full credit toward such a degree, or awards a degree that is acceptable for admission to a graduate or professional degree program, subject to review and approval by the Secretary and is accredited by a nationally recognized accrediting agency or association, or if not so accredited, is an institution that has been granted pre-accreditation status by such an agency or association that has been recognized by the Secretary for the granting of pre-accreditation status, and the Secretary has determined that there is satisfactory assurance that the institution will meet the accreditation standards of such an agency or association within a reasonable time.

(g) *Indian/Native American tribal government (Federally recognized)* means a governing body of a tribe, band, pueblo, community, village, or group of native American Indians, or Alaska Natives, that qualifies as an Indian tribal government upon a determination by the Internal Revenue Service that the governing body exercises governmental functions.

(h) *Nonprofit organization* means any corporation, trust, association, cooperative, or other organization, not including IHEs, that:

(1) Is operated primarily for scientific, educational, service, charitable, or similar purposes in the public interest;

(2) Is not organized primarily for profit; and

(3) Uses net proceeds to maintain, improve, or expand the operations of the organization. In accordance with section 18 of the Lobbying Disclosure Act of 1995 (Public Law 104-65) (codified at 2 U.S.C. 1611), non-profit entities incorporated under section 501(c)(4) of the Internal Revenue Code that engage in lobbying activities are not eligible to receive Federal funds or grants. (Note: After receiving a grant, such organization may not engage in any activities, including awareness-raising or advocacy activities, that include fundraising for, or lobbying of, U.S. Federal, state, or local governments (see 2 CFR 200.450 for more information).)

(i) *Faith-based organization* means a nonprofit organization that is affiliated with, supported by, or based on a religion or religious group.

(j) *Grantee* means an applicant that is awarded a grant under this part.

(k) *In-demand industry sector or occupation* means:

(1) An industry sector that has a substantial current or potential impact (including through jobs that lead to economic self-sufficiency and opportunities for advancement) on the State, regional, or local economy, as appropriate, and that contributes to the growth or stability of other supporting businesses, or the growth of other industry sectors; or

(2) An occupation that currently has or is projected to have a number of positions (including positions that lead to economic self-sufficiency and opportunities for advancement) in an industry sector so as to have a significant impact on the State, regional, or local economy, as appropriate.

(l) *Notice of Funding Opportunity* (NOFO) means a Notice of Funding Opportunity published by VA at Grants.gov (<https://www.grants.gov>) alerting eligible entities of the availability of VSTAGP grants and containing information about the VSTAGP grant application process in accordance with § 80.4.

(m) *Grant agreement* means a legal instrument of financial assistance between a Federal awarding agency or pass-through entity and a non-Federal entity that is

consistent with 31 U.S.C. 6302 and 6304.

(n) *Participant* means a former member of the U.S. Armed Forces who was separated, retired, or discharged from the U.S. Armed Forces, or spouse of such former member, who receives services for which a VSTAGP grant is awarded.

(o) *Spouse* means an individual lawfully married to a former member of the U.S. Armed Forces who was separated, retired, or discharged from the U.S. Armed Forces.

(p) *Covered public health emergency* means an emergency with respect to COVID-19 declared by a Federal, State, or local authority in accordance with Pub. L. 117- 4, sec. 2(e)(3).

(Authority: Pub. L. 116-315, sec. 4304)

§ 80.3 Grants—general.

(a) *Grants.* VA will award VSTAGP grants to eligible applicants selected under § 80.8(a)(1).

(b) *Maximum amounts.* The maximum amount to be awarded to each grantee and the total maximum amount for all grants will be specified in the annually published NOFO.

(c) *Number of grants awarded.* The number of grants VA will award will depend on the total amount of grant funding available at VA's discretion and the funding amount awarded to each grantee, which is based on each grantee's proposal.

(d) *Grant award limitation.* An eligible entity may receive only one VSTAGP grant, and only one VSTAGP grant will be awarded in any one location as specified in the NOFO.

(e) *Period of performance.* VSTAGP grants will be awarded for a maximum period of 5 years, beginning on the date on which the VSTAGP grants are awarded. They will not be extended or renewed.

(f) *Amount of grant.* A grant under this section shall be in an amount that does not exceed 50% of the amount required by the organization to provide the services described

in paragraph (b) of this section.

(g) *No participant charges.* A grantee may not charge any participants a fee for services provided by the grantee or require any participants to participate in other activities sponsored by the grantee as a condition of receiving services for which the VSTAGP grant is made.

(Authority: Pub. L. 116-315, sec. 4304)

§ 80.4 Notice of Funding Opportunity (NOFO).

When funds are available for VSTAGP grants, VA will publish a NOFO at Grants.gov (<https://www.grants.gov>). The NOFO will identify:

- (a) The location for obtaining VSTAGP grant applications, including the specific forms that will be required;
- (b) The date, time, and place for submitting completed VSTAGP grant applications;
- (c) Priority population categories;
- (d) The estimated total amount of funds available and the maximum funds available to a single grantee;
- (e) Matching funds requirements;
- (f) The minimum number of total points and points per category that an applicant must receive to be considered for a grant and information regarding the scoring process;
- (g) Any timeframes and manner for payments under the VSTAGP grant;
- (h) A description of eligible entities or other eligibility requirements necessary to receive the grant; and
- (i) Other information necessary for the VSTAGP grant application process, as determined by VA, including contact information for the office that will oversee the VSTAGP within VA.

(Authority: Pub. L. 116-315, sec. 4304; 2 CFR 200.203)

§ 80.5 Applications.

To apply for a grant, an eligible entity must submit a complete application package to VA, as described in the NOFO. Applications will be accepted only through www.grants.gov.

(Authority: Pub. L. 116-315, sec. 4304; 2 CFR 200.203)

§ 80.6 Additional factors for selecting applications.

(a) *Applicant's performance on prior award.* VA may consider the applicant's noncompliance with requirements applicable to prior VA or other agency awards as reflected in past written evaluation reports and memoranda on performance and the completeness of required prior submissions.

(b) *Applicant's fiscal integrity.* Applicants must meet and maintain standards of fiscal integrity for participation in Federal grant programs as reflected in 2 CFR 200.205.

(c) *Priority preference.* Priority preference will be given to organizations that either provide multiple forms of services or are located in a State with:

- (1) A high rate of unemployment among Veterans;
- (2) A high rate of usage of unemployment benefits for recently separated members of the Armed Forces; or
- (3) A labor force or economy that has been significantly impacted by a covered public health emergency.

(d) *Risk assessment evaluation.* VA will conduct a formal assessment, prior to award, of the applicant's financial capability, adequacy of accounting system, and internal controls to assess the risk posed by each applicant.

(Authority: Pub. L. 116-315, sec. 4304; 2 CFR 200.203)

§ 80.7 Scoring and selection.

(a) *Scoring.* VA will only score complete applications received from eligible applicants by the deadline established in the NOFO. The applications must meet the minimum criteria set forth in the NOFO and will be scored as specified in the NOFO, as

set forth in § 80.4.

(b) *Selection of recipients.* All complete applications will be scored using the criteria in paragraph (a) of this section and ranked in order of highest to lowest total score. NOFO announcements may also clarify the selection criteria in paragraph (a) of this section. The relative weight (point value) for each selection will be specified in the NOFO. VA will award VSTAGP grants on the primary basis of the scores but will also consider additional factors listed in § 80.6.

(Authority: Pub. L. 116-315, sec. 4304; 2 CFR 200.203)

§ 80.8 Disposition of applications.

(a) *Disposition of applications.* Upon review of an application and dependent on the availability of funds, VA will:

(1) Approve the application for funding, in whole or in part, for such amount of funds, and subject to such conditions that VA deems necessary or desirable;

(2) Determine that the application is of acceptable quality for funding, in that it meets minimum criteria, but disapprove the application for funding because it does not rank sufficiently high in relation to other applications to qualify for an award based on the level of funding available, or for another reason as provided in the decision document; or

(3) Defer action on the application for such reasons as lack of funds or a need for further review.

(b) *Notification of disposition.* VA will notify the applicant in writing of the disposition of the application. A signed grant agreement form, as defined in § 80.10, will be issued to the applicant of an approved application.

(Authority: Pub. L. 116-315, sec. 4304; 2 CFR 200.203)

§ 80.9 Withdrawal of grant application.

Applicants may withdraw a VSTAGP application submitted through Grants.gov by writing to the specified VA point of contact. An applicant may provide a rationale for the

withdrawal request as specified in the NOFO.

(Authority: Pub. L. 116-315, sec. 4304; 2 CFR 200.203)

§ 80.10 Grant agreement.

(a) VA will draft a VSTAGP grant agreement to be executed by VA and the grantee.

(b) The VSTAGP grant agreement will provide that the grantee agrees to, and will ensure that each subgrantee (if applicable) agrees to:

(1) Operate the project in accordance with this part and the terms of the agreement.

(2) Abide by the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards under 2 CFR part 200 and 2 CFR parts 25 and 170, if applicable.

(3) Comply with such other terms and conditions, including recordkeeping and reports for project monitoring and evaluation purposes, as VA may establish for purposes of carrying out the VSTAGP effectively and efficiently and as described in the NOFO; and

(4) Provide any necessary additional information requested by VA in the manner and timeframe specified by VA.

(Authority: Pub. L. 116-315, sec. 4304; 2 CFR 200.203)

§ 80.11 Payments under the grant.

(a) *Payments.* Grantees are to be paid in accordance with the timeframes and manner set forth in the NOFO.

(b) *Availability of grant funds.* Federal financial assistance will become available subsequent to the effective date of the grant as set forth in the grant agreement.

Recipients will not be reimbursed for costs resulting from obligations incurred before the effective date of the grant.

(Authority: Pub. L. 116-315, sec. 4304; 2 CFR 200.203)

§ 80.12 Grantee reporting requirements.

(a) *Quarterly reports.* All grantees must submit to VA quarterly reports, as required in the NOFO, within 30 days after the last day of each quarter based on the Federal fiscal year—with the first report due not later than 30 days after the last day of the quarter for which a grant is paid under this part—which includes the following information:

- (1) Record of time and resources expended in outreach activities and the methods used;
- (2) The number of participants served, including demographics of this population;
- (3) Types of assistance provided;
- (4) A full accounting of VSTAGP grant funds received from VA and used or unused funds during the quarter; and
- (5) Results of routine monitoring and any project variations.

(b) *Final report.* Per 2 CFR 200.344, all grantees must submit to VA, not later than 120 days after the last day of the grant period (as defined in the NOFO) for which a grant is awarded under this part, a final report that meets the requirement set forth in the NOFO. The last quarterly performance and financial report received will be recorded as the final report. The financial report shall be noted as “Final” on the SF-425 Federal Financial Report.

(c) *Additional reports.* VA may request additional reports to allow VA to assess project accountability and effectiveness. Grant recipients are encouraged to incorporate program evaluation activities from the outset of their program design and implementation to meaningfully document and measure their progress towards the outcomes proposed.

(1) Title I of the Foundations for Evidence-Based Policymaking Act of 2018 (Evidence Act), Pub. L. No. 115-435 (2019) defines evaluation as “an assessment using systematic data collection and analysis of one or more programs, policies, and organizations intended to assess their effectiveness and efficiency.” Evidence Act section

101 (codified at 5 U.S.C. 311). Credible program evaluation activities are implemented with relevance and utility, rigor, independence and objectivity, transparency, and ethics (OMB Circular A-11, Part 6 Section 290).

(2) Evaluation costs are allowable costs (either as direct or indirect), unless prohibited by statute or regulation, and such costs may include the personnel and equipment needed for data infrastructure and expertise in data analysis, performance, and evaluation. (2 CFR part 200).

(3) In addition, recipients are required to participate in a VA-led evaluation if selected, which may be carried out by a third-party on behalf of VA. By accepting grant funds, recipients agree to participate in the evaluation.

(Authority: Pub. L. 116-315, sec. 4304; 2 CFR 200.203)

§ 80.13 Termination of grant; recovery of funds.

(a) *Termination of grant.* VA may terminate a grant agreement with any VSTAGP grantee that does not comply with the terms of the VSTAGP agreement.

(b) *Recovery of funds.* VA may recover from the grantee any funds paid if the grantee violates the grant agreement or may recover any funds that have not been used in accordance with a VSTAGP grant agreement. If VA decides to recover funds, VA will issue the grantee a notice of intent to recover VSTAGP grant funds. The grantee will then have 30 days from the date of the notice to submit documentation demonstrating why the VSTAGP grant funds should not be recovered. If the VSTAGP grantee does not respond or if the grantee responds, but VA determines the documentation is insufficient to establish compliance, VA will make a final determination to recover the VSTAGP grant funds. If VA determines that the grantee did not violate the grant agreement, VA will make a final determination not to recover the grant funds.

(c) *Prohibition of further payment of grant funds.* When VA determines that action will be taken to recover grant funds from a grantee, the grantee will be prohibited from

receiving any further VSTAGP grant funds under this part until the grant funds are recovered and the condition that led to the recovery of the grant funds is resolved, unless the grant agreement has been terminated. If the grant agreement has been terminated, no future payments would be issued upon recovery.

(Authority: Pub. L. 116-315, sec. 4304; 2 CFR 200.203)

§ 80.14 Compliance review requirements.

(a) *Site visits.* VA may conduct, as needed, site visits to grantee locations to review grantee accomplishments and management control systems.

(b) *Inspections.* VA may conduct, as needed, inspections of grantee records to determine compliance with the provisions of this part. All visits and evaluations will be performed with minimal disruption to the grantee to the extent practicable.

(Authority: Pub. L. 116-315, sec. 4304; 2 CFR 200.203)

§ 80.15 Financial management.

(a) *Compliance.* All recipients will comply with applicable requirements of the Single Audit Act Amendments of 1996, as implemented by 2 CFR part 200.

(b) *Financial Management.* All grantees must use a financial management system that complies with 2 CFR part 200. Grantees must meet the applicable requirements of the Office of Management and Budget's regulations on Cost Principles at 2 CFR 200.400 through 200.475.

(Authority: Pub. L. 116-315, sec. 4304; 2 CFR 200.400 through 200.475)

§ 80.16 Recordkeeping.

Grantees must ensure that records are maintained in accordance with 2 CFR 200.337. Grantees must produce such records at VA's request.

(Authority: Pub. L. 116-315, sec. 4304; 2 CFR 200.337)

§ 80.17 Non-appealability of grant award decisions.

Grant award decisions are discretionary and are not subject to appeal to any VA

official or board.

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